

22 VAC 40-73-50. Disclosure.

- h. Criteria for discharge;
 - i. Categories, frequency, and number of activities provided for residents;
 - j. General number, position types, and qualifications of staff on each shift;
 - k. Whether or not the facility maintains liability insurance that provides at least the minimum amount of coverage established by the board for disclosure purposes set forth in 22 VAC 40-73-45 to compensate residents or other individuals for injuries and losses from negligent acts of the facility. The facility shall state in the disclosure statement the minimum amount of coverage established by the board in 22 VAC 40-73-45;
 - l. Whether or not the facility has an on-site emergency electrical power source for the provision of electricity during an interruption of the normal electric power supply. If the facility does have an on-site emergency electrical power source, the statement must include: (i) the items for which the source will supply power and (ii) whether or not staff of the facility have been trained to maintain and operate the power source. For the purposes of this subdivision, an on-site emergency electrical power supply shall include both permanent emergency electrical power sources and portable emergency electrical power sources, provided that such temporary electrical power supply source remains on the premises of the facility at all times. Written acknowledgement of the disclosure shall be evidenced by the signature or initials of the resident or his legal representative immediately following the on-site emergency electrical power source disclosure statement.
 - m. Notation that additional information about the facility that is included in the resident agreement is available upon request; and
 - n. The department's website address, with a note that additional information about the facility may be obtained from the website.
- B. Written acknowledgment of the receipt of the disclosure by the resident or his legal representative shall be retained in the resident's record.
- C. The disclosure statement shall also be available to the general public, upon request.

22 VAC 40-73-60. Electronic records and signatures.

- A. Use of electronic records or signatures shall comply with the provisions of the Uniform Electronic Transactions Act (§ 59.1-479 et seq. of the Code of Virginia).

22 VAC 40-73-60. Electronic records and signatures.

B. In addition to the requirements of the Uniform Electronic Transactions Act, the use of electronic signatures shall be deemed to constitute a signature and have the same effect as a written signature on a document as long as the licensee:

1. Develops, implements, and maintains specific policies and procedures for the use of electronic signatures;
2. Ensures that each electronic signature identifies the individual signing the document by name and title;
3. Ensures that the document cannot be altered after the signature has been affixed;
4. Ensures that access to the code or key sequence is limited;

22 VAC 40-73-150. Administrator provisions and responsibilities.

1. The facility shall notify the department's regional licensing office in writing within 14 days of a change in a facility's administrator, including the resignation of an administrator, appointment of an acting administrator, and appointment of a new administrator, except that the time period for notification may differ as specified in subdivision 2 of this subsection.
2. For a facility licensed for both residential and assisted living care, the facility shall immediately notify the Virginia Board of Long-Term Care Administrators and the department's regional licensing office that the licensed administrator died, resigned, was discharged, or became unable to perform his duties and that a new licensed administrator has been employed or that the facility is operating without an administrator licensed by the Virginia Board of Long-Term Administrators, whichever is the case, and provide the last date of employment of the previous licensed administrator.
3. For a facility licensed for both residential and assisted living care, when an acting administrator is named, he shall notify the department's regional licensing office of his employment, and if he is intending to assume the position permanently, submit a completed application for an approved administrator-in-training program to the Virginia Board of Long-Term Care Administrators within 10 days of employment.
4. For a facility licensed for both residential and assisted living care, the acting administrator shall be qualified by education for an approved administrator-in-training program and have a minimum of one year of administrative or supervisory experience in a health care or long-term care facility or have completed such a program and be awaiting licensure.
5. A facility licensed only for residential living care may be operated by an acting administrator for no more than 90 days from the last date of employment of the administrator.
6. A facility licensed for both residential and assisted living care may be operated by an acting administrator for no more than 150 days, or not more than 90 days if the acting administrator has not applied for licensure, from the last date of employment of the licensed administrator.
7. An acting administrator may be granted one extension of up to 30 days in addition to the 150 days, as specified in subdivision 6 of this subsection, upon written request to the department's regional licensing office. An extension may only be granted if the acting administrator (i) has applied for licensure as a long-term care administrator pursuant to Chapter 31 (§ 54.1-3100 et seq.) of Title 54.1 of the Code of Virginia, (ii) has completed the administrator-in-training program, and (iii) is awaiting the results of the national examination. If a 30-day extension is granted, the acting administrator shall immediately submit written notice of such to the Virginia Board of Long-Term Care Administrators.

22 VAC 40-73-150. Administrator provisions and responsibilities.

8. A person may not become an acting administrator at any assisted living facility if the Virginia Board of Long-Term Care Administrators has refused to issue or renew, suspended, or revoked his assisted living facility or nursing home administrator license.

9. No assisted living facility shall operate under the supervision of an acting administrator pursuant to §§ 54.1-3103.1 and 63.2-1803 of the Code of Virginia more than two times during any two-year period unless authorized to do so by the department.

C. The administrator shall be responsible for the general administration and management of the facility and shall oversee the day-to-day operation of the facility. This shall include responsibility for:

1. Ensuring that care is provided to residents in a manner that protects their health, safety, and well-being;
2. Maintaining compliance with applicable laws and regulations;
3. Developing and implementing all policies, procedures, and services as required by this chapter;
4. Ensuring staff and volunteers comply with residents' rights;
5. Maintaining buildings and grounds;
6. Recruiting, hiring, training, and supervising staff; and
7. Ensuring the development, implementation, and monitoring of an individualized service plan for each resident, except that a plan is not required for a resident with independent living status.

D. The administrator shall report to the Director of the Department of Health Professions information required by and in accordance with § 54.1-2400.6 of the Code of Virginia regarding any person (i) licensed, certified, or registered by a health regulatory board or (ii) holding a multistate licensure privilege to practice nursing or an applicant for licensure, certification, or registration. Information required to be reported, under specified circumstances includes substance abuse and unethical or fraudulent conduct.

E. For a facility licensed only for residential living care, either the administrator or a designated assistant who meets the qualifications of the administrator shall be awake and on duty on the premises at least 40 hours per week with no fewer than 24 of those hours being during the day shift on weekdays unless at least one of the following applies:

1. 22 VAC 40-73-170 allows a shared administrator for smaller facilities.

22 VAC 40-73-150. Administrator provisions and responsibilities.

2. If the administrator is licensed as an assisted living facility administrator or nursing home administrator by the Virginia Board of Long-Term Care Administrators, the provisions regarding the administrator in subsection F of this section apply. When such is the case, there is no requirement for a designated assistant.

F. For a facility licensed for both residential and assisted living care, the administrator shall serve on a full-time basis as the on-site agent of the licensee and shall be responsible for the day-to-day administration and management of the facility, except as provided in 22 VAC 40-73-170.

G. The administrator, acting administrator, or as allowed in subsection E of this section, designated assistant administrator, shall not be a resident of the facility.

22 VAC 40-73-160. Administrator training.

A. For a facility licensed only for residential living care that does not employ a licensed administrator, the administrator shall attend at least 20 hours of training related to management or operation of a residential facility for adults or relevant to the population in care within 12 months from the starting date of employment and annually thereafter from that date. At least two of the required 20 hours of training shall focus on infection control and prevention, and when adults with mental impairments reside in the facility, at least six of the required 20 hours shall focus on topics related to residents' mental impairments. Documentation of attendance shall be retained at the facility and shall include type of training, name of the entity that provided the training, and date and number of hours of training.

B. All licensed administrators shall meet the continuing education requirements for continued licensure.

C. Any administrator who has not previously undergone the training specified in 22 VAC 40-73-40 C shall be required to complete that training within two months of employment as administrator of the facility. The training may be counted toward the annual training requirement for the first year, except that for licensed administrators, whether the training counts toward continuing education and for what period of time depends upon the administrator licensure requirements.

D. Administrators who supervise medication aides, as allowed by 22 VAC 40-73-670 3 b, but are not registered medication aides themselves, shall successfully complete a training program approved by the Virginia Board of Nursing for the registration of medication aides. The training program for such administrators must include a minimum of 68 hours of student instruction and training, but need not include the prerequisite for the program or the written

22 VAC 40-73-950. Emergency preparedness and response plan.

- b. Coordination of logistics during the emergency;
 - c. Communications;
 - d. Life safety of residents, staff, volunteers, and visitors;
 - e. Property protection;
 - f. Continued services to residents;
 - g. Community resource accessibility; and
 - h. Recovery and restoration.
4. Written emergency response procedures for assessing the situation; protecting residents, staff, volunteers, visitors, equipment, medications, and vital records; and restoring services. Emergency procedures shall address:
- a. Alerting emergency personnel and facility staff;
 - b. Warning and notification of residents, including sounding of alarms when appropriate;
 - c. Providing emergency access to secure areas and opening locked doors;
 - d. Conducting evacuations and sheltering in place, as appropriate, and accounting for all residents;
 - e. Locating and shutting off utilities when necessary;
 - f. Maintaining and operating emergency equipment effectively and safely;
 - g. Communicating with staff and community emergency responders during the emergency; and
 - h. Conducting relocations to emergency shelters or alternative sites when necessary and accounting for all residents.
5. Supporting documents that would be needed in an emergency, including emergency call lists, building and site maps necessary to shut off utilities, memoranda of understanding with relocation sites, and list of major resources such as suppliers of emergency equipment.

22 VAC 40-73-950. Emergency preparedness and response plan.

B. By December 1, 2020, an assisted living facility that is equipped with an on-site emergency generator shall include in its emergency preparedness and response plan a description of the generator's capacity to provide sufficient power for the operation of lighting, ventilation, temperature control, supplied oxygen, and refrigeration.

C. By December 1, 2020, an assisted living facility that is not equipped with an onsite emergency generator shall:

1. Enter into an agreement with a vendor capable of providing the facility with an emergency generator for the provision of electricity during an interruption of the normal electric power supply; and
2. Enter into at least one agreement with a separate vendor capable of providing an emergency generator in the event that the primary vendor is unable to comply with its agreement with the facility during an emergency.

D. Staff and volunteers shall be knowledgeable in and prepared to implement the emergency preparedness plan in the event of an emergency.

E. The facility shall develop and implement an orientation and semi-annual review on the emergency preparedness and response plan for all staff, residents, and volunteers, with emphasis placed on an individual's respective responsibilities. The review shall be documented by signing and dating. The orientation and review shall cover responsibilities for:

1. Alerting emergency personnel and sounding alarms;
2. Implementing evacuation, shelter in place, and relocation procedures;
3. Using, maintaining, and operating emergency equipment;
4. Accessing emergency medical information, equipment, and medications for residents;
5. Locating and shutting off utilities; and
6. Utilizing community support services.

F. The facility shall review the emergency preparedness plan annually or more often as needed, document the review by signing and dating the plan, and make necessary plan revisions. Such revisions shall be communicated to staff, residents, and volunteers and incorporated into the orientation and semi-annual review for staff, residents, and volunteers.

G. In the event of a disaster, fire, emergency, or any other condition that may jeopardize the health, safety, and welfare of residents, the facility shall take appropriate action to protect

22 VAC 40-73-950. Emergency preparedness and response plan.

the health, safety, and welfare of the residents and take appropriate actions to remedy the conditions as soon as possible.

H. After the disaster or emergency is stabilized, the facility shall:

1. Notify family members and legal representatives; and
2. Report the disaster or emergency to the regional licensing office by the next day as specified in 22 VAC 40-73-70.

22 VAC 40-73-960. Fire and emergency evacuation plan.

A. Assisted living facilities shall have a written plan for fire and emergency evacuation that is to be followed in the event of a fire or other emergency. The plan shall be approved by the appropriate fire official.

B. A fire and emergency evacuation drawing shall be posted in a conspicuous place on each floor of each building used by residents. The drawing shall show primary and secondary escape routes, areas of refuge, assembly areas, telephones, fire alarm boxes, and fire extinguishers, as appropriate.

22 VAC 40-73-980. Emergency equipment and supplies.

B. In facilities that have a motor vehicle that is used to transport residents and in a motor vehicle used for a field trip, there shall be a first aid kit on the vehicle, located in a designated place that is accessible to staff but not residents that includes items as specified in subsection A of this section.

C. First aid kits shall be checked at least monthly to ensure that all items are present and items with expiration dates are not past their expiration date.

D. Each facility with six or more residents shall be equipped with a permanent connection able to connect to a temporary emergency electrical power source for the provision of electricity during an interruption of the normal electric power supply. The connection shall be of the size that is capable of providing power to required circuits when connected and that is sufficient to implement the emergency preparedness and response plan. The installation of a connection for temporary electric power shall be in compliance with the Virginia Uniform Statewide Building Code (13 VAC 5-63) and approved by the local building official. Permanent installations of emergency power systems shall be acceptable when installed in accordance with the Uniform Statewide Building Code and approved by the local building official.

E. By December 1, 2020, the following provisions shall be met:

1. A facility that is equipped with an on-site emergency generator shall test the generator monthly and maintain records of the tests.
2. A facility that is not equipped with an on-site emergency generator shall have a temporary emergency electrical power source connection, which is tested at the time of installation and every two years thereafter by a contracted vendor, and maintain records of the tests.

F The following emergency lighting shall be available:

1. Flashlights or battery lanterns for general use.
2. One flashlight or battery lantern for each employee directly responsible for resident care who is on duty between 5 p.m. and 7 a.m.
3. One flashlight or battery lantern for each bedroom used by residents and for the living and dining area unless there is a provision for emergency lighting in the adjoining hallways.
4. The use of open flame lighting is prohibited.

G. There shall be two forms of communication for use in an emergency.

H. The facility shall ensure the availability of a 96-hour supply of emergency food and drinking water. At least 48 hours of the supply must be on site at any given time, of which the facility's rotating stock may be used.

22 VAC 40-73-990. Plan for resident emergencies and practice exercise.

A. Assisted living facilities shall have a written plan for resident emergencies that includes:

1. Procedures for handling medical emergencies, including identifying the staff person responsible for (i) calling the rescue squad, ambulance service, resident's

22 VAC 40-73-1120. Activities.

E. As appropriate, residents shall be encouraged to participate in supervised activities or programs outside the special care unit.

F. There shall be a designated staff person responsible for managing or coordinating the structured activities program. This staff person shall be on site in the special care unit at least 20 hours a week, shall maintain personal interaction with the residents and familiarity with their needs and interests, and shall meet at least one of the following qualifications:

1. Be a qualified therapeutic recreation specialist or an activities professional;
2. Be eligible for certification as a therapeutic recreation specialist or an activities professional by a recognized accrediting body;
3. Have one year full-time work experience within the last five years in an activities program in an adult care setting;
4. Be a qualified occupational therapist or an occupational therapy assistant; or
5. Prior to or within six months of employment, have successfully completed 40 hours of department-approved training in adult group activities and in recognizing and assessing the activity needs of residents.

The required 20 hours on site does not have to be devoted solely to managing or coordinating activities; neither is it required that the person responsible for managing or coordinating the activities program conduct the activities.

22 VAC 40-73-1130. Staffing.

A. Except during night hours, when 20 or fewer residents are present, at least two direct care staff members shall be awake and on duty at all times in each special care unit who shall be responsible for the care and supervision of the residents. For every additional 10 residents, or portion thereof, at least one more direct care staff member shall be awake and on duty in the unit.

B. Except during night hours, only one direct care staff member has to be awake and on duty in the unit if sufficient to meet the needs of the residents, if (i) there are no more than five residents present in the unit and (ii) there are at least two other direct care staff members in the building, one of whom is readily available to assist with emergencies in the special care unit, provided that supervision necessary to ensure the health, safety, and welfare of residents throughout the building is not compromised.

C. During night hours, the following number of direct care staff members shall be awake and on duty at all times in each special care unit and shall be responsible for the care and supervision of the residents:

1. When 22 or fewer residents are present, at least two direct care staff members;
2. When 23 to 32 residents are present, at least three direct care staff members;
3. When 33 to 40 residents are present, at least four direct care staff members; and
4. When more than 40 residents are present, at least four direct care staff members plus at least one more direct care staff member for every additional 10 residents, or portion thereof.

The requirements in subsections A, B and C of this section are independent of 22 VAC 40-73-280 D and 22 VAC 40-73-1020 A and B.

D. During trips away from the facility, there shall be sufficient direct care staff to provide sight and sound supervision to residents.

22 VAC 40-73-1140. Staff training.

A. Within three months of the starting date of employment, the administrator shall attend at least 12 hours of training in cognitive impairment that meets the requirements of subsection C of this section.

1. Training in cognitive impairment that meets the requirements of subsection C of this section and was completed in the year prior to employment is transferable and counts toward the required 12 hours if there is documentation of the training.
2. Whether the training counts toward continuing education for administrator licensure and for what period of time depends upon the licensure requirements of the Virginia Board of Long-Term Care Administrators.

B. Within four months of the starting date of employment in the safe, secure environment, direct care staff shall attend at least 10 hours of training in cognitive impairment that meets the requirements of subsection C of this section.

1. The training is counted toward the annual training requirement for the first year.
2. Training in cognitive impairment that meets the requirements of subsection C of this section and was completed in the year prior to employment is transferable if there is documentation of the training.
3. The documented previous cognitive impairment training referenced in subdivision 2 of this subsection is counted toward the required 10 hours but not toward the annual training requirement.

C. The training in cognitive impairment required by subsections A and B of this section shall be relevant to the population in care, shall maximize the level of a resident's functional ability, and shall include the following topics:

1. Information about cognitive impairment, including areas such as cause, progression, behaviors, and management of the condition;
2. Communicating with the resident;
3. Resident care techniques for persons with physical, cognitive, behavioral, and social disabilities;
4. Managing dysfunctional behavior;